

Fishery Conservation and Management

§ 648.95

scallop vessel not fishing under a scallop DAS, while fishing exclusively with scallop dredge gear as specified in § 648.51(b), may possess, retain, and land up to 50 lb (23 kg) tail weight or 166 lb (75 kg) whole weight of monkfish per day or partial day, not to exceed 150 lb (68 kg) tail weight or 498 lb (226 kg) whole weight per trip, unless otherwise specified in paragraph (c)(8)(ii) of this section.

(ii) *Limited access scallop vessels fishing in Sea Scallop Access Areas.* A vessel issued a valid monkfish incidental catch (Category E) permit or a valid limited access Category C, D, F, G, or H permit, and also possessing a limited access sea scallop permit while fishing exclusively with scallop dredge gear as specified in § 648.51(b), and fishing in one of the established Sea Scallop Access Areas specified under § 648.59, may possess, retain, and land up to 300 lb (136 kg) tail weight or 996 lb (452 kg) whole weight of monkfish per day or partial day fished within the boundaries of the Sea Scallop Access Area. Time within the applicable access area, for purposes of determining the incidental catch limit, will be determined through the vessel's VMS unit.

(d) *Monkfish liver landing restrictions.*

(1) A vessel authorized to land monkfish under this part may possess or land monkfish livers up to 25 percent of the tail-weight of monkfish, or up to 10 percent of the whole weight of monkfish, per trip, except as provided under paragraph (d)(2) of this section.

(2) If a vessel possesses or lands both monkfish tails and whole monkfish, the vessel may land monkfish livers up to 10 percent of the whole weight of monkfish per trip using the following weight ratio:

$$(0.10) \times [(\text{tail weight} \times 3.32) + (\text{whole fish} \times 1)]$$

NOTE TO PARAGRAPH (d)(2): The value 3.32 is the live weight conversion for tails and the value of 1 is the live weight conversion for fish landed in a whole condition.

(e) *Transiting.* A vessel that has declared into the NFMA for the purpose of fishing for monkfish under the less restrictive measures of the NFMA, may transit the SFMA provided that the vessel does not harvest or possess monkfish, or any other fish, from the

SFMA, and the vessel's gear is properly stowed and not available for immediate use in accordance with the regulations specified under § 648.23(b).

(f) *Area declaration requirement for a vessel fishing exclusively in the NFMA.* A vessel intending to fish for, or fishing for, possessing or landing monkfish under a multispecies, scallop, or monkfish DAS under the less restrictive management measures of the NFMA, must fish exclusively in the NFMA for the entire trip. In addition, a vessel fishing under a monkfish DAS must declare its intent to fish in the NFMA through the vessel's VMS unit. A vessel that is not required to and does not possess a VMS unit, such as a vessel that declares DAS through the call-in system, must declare its intent to fish in the NFMA by obtaining a letter of authorization from the Regional Administrator, for a period of not less than 7 days. A vessel that has not declared into the NFMA under this paragraph (f) shall be presumed to have fished in the SFMA and shall be subject to the more restrictive requirements of that area. A vessel that has declared into the NFMA may transit the SFMA, providing that it complies with the transiting and gear storage provision described in paragraph (e) of this section, and provided that it does not fish for or catch monkfish, or any other fish, in the SFMA.

(g) *Other landing restrictions.* Vessels are subject to any other applicable landing restrictions of this part.

[64 FR 54749, Oct. 7, 1999, as amended at 65 FR 11480, Mar. 3, 2000; 65 FR 37917, June 19, 2000; 68 FR 22330, Apr. 28, 2003; 69 FR 18293, Apr. 7, 2004; 69 FR 22988, Apr. 27, 2004; 70 FR 21944, 22244, Apr. 28, 2005; 71 FR 23874, Apr. 25, 2006; 72 FR 20959, Apr. 27, 2007; 72 FR 53942, Sept. 21, 2007; 72 FR 53950, Sept. 21, 2007; 73 FR 22835, Apr. 28, 2008]

§ 648.95 Offshore Fishery Program in the SFMA.

(a) *General.* Any vessel issued a valid monkfish limited access permit is eligible to apply for a Category F permit in order to fish in the Offshore Fishery Program in the SFMA.

(1) A vessel issued a Category F permit is subject to the specific provisions and conditions of this section while fishing on a monkfish DAS.

(2) When not fishing on a monkfish DAS, a Category F vessel may fish under the regulations applicable to the monkfish incidental catch (Category E) permit, specified under paragraph § 648.94(c). When fishing on a NE multispecies DAS in the NFMA, a Category F vessel that also possesses a NE multispecies limited access permit is subject to the possession limits applicable to vessels issued an incidental catch permit as described in § 648.94(c)(1)(i).

(3) Limited access Category C or D vessels that apply for and are issued a Category F permit remain subject to the provisions specific to Category C and D vessels, unless otherwise specified under this subpart F.

(b) *Declaration.* To fish in the Offshore Fishery Program, a vessel must obtain a monkfish limited access Category F permit and fish under this permit for the entire fishing year, subject to the conditions and restrictions specified under this part. The owner of a vessel, or authorized representative, may change the vessel's limited access monkfish permit category within 45 days of the effective date of the vessel's permit, provided the vessel has not fished under the monkfish DAS program during that fishing year. If such a request is not received within 45 days, the vessel owner may not request a change in permit category and the vessel's permit category will remain unchanged for the duration of the fishing year.

(c) *Offshore Fishery Program Area.* The Offshore Fishery Program Area is bounded on the south by 38°00' N. lat., and on the north, west, and east by the area coordinates specified in § 648.23(a).

(d) *Season.* October 1 through April 30 each year.

(e) *Restrictions.* (1) Except for the transit provisions provided for in paragraph (f) of this section, a vessel issued a valid Category F permit may only fish for, possess, and land monkfish in or from the Offshore Fishery Program Area while on a monkfish DAS.

(2) A vessel enrolled in the Offshore Fishery Program is restricted to fishing under its monkfish DAS during the season in paragraph (d) of this section.

(3) A vessel issued a Category F permit that is fishing on a monkfish DAS

is subject to the minimum mesh size requirements applicable to limited access monkfish Category A and B vessels, as specified under § 648.91(c)(1)(i) and (c)(1)(iii), as well as the other gear requirements specified in paragraphs (c)(2) and (c)(3).

(4) A vessel issued a Category F permit must have installed on board an operational VMS unit that meets the minimum performance criteria specified in §§ 648.9 and 648.10 during the entire season established under paragraph (d) of this section. Unless otherwise required to maintain an operational VMS unit under the VMS notification requirements specified at § 648.10(b)(1), a vessel issued a Category F permit may turn off its VMS unit outside of this season.

(f) *Transiting.* A vessel issued a Category F permit and fishing under a monkfish DAS that is transiting to or from the Offshore Fishery Program Area, described in paragraph (c)(1) of this section, shall have all gear stowed and not available for immediate use in accordance with the gear stowage provisions specified under § 648.23(b).

(g) *Monkfish possession limits and DAS allocations.* (1) A vessel issued a Category F permit may land up to 1,600 lb (726 kg) tail weight or 5,312 lb (2,409 kg) whole weight of monkfish per monkfish DAS (or any prorated combination of tail weight and whole weight based on the conversion factor of 3.32).

(2) The monkfish DAS allocation for vessels issued a Category F permit shall be equal to the trip limit applicable to the vessel's monkfish limited access permit category divided by the fixed daily possession limit specified in paragraph (g)(1) of this section, and then multiplied by the DAS allocation for limited access monkfish vessels not issued Category F permits, specified under § 648.92(b)(1). For example, if a vessel has a limited access monkfish Category C permit, and the applicable trip limit is 800 lb (363 kg) for this category, and the vessel has an annual allocation of 40 monkfish DAS, then the monkfish DAS allocated to that vessel when issued a Category F permit would be 20 monkfish DAS (800 lb divided by 1,600 lb, multiplied by 40 monkfish DAS equals 20 DAS). Any carryover monkfish DAS will be included in the

calculation of monkfish DAS for Category F vessels.

(3) Vessels issued a Category F permit that are fishing under a NE multispecies DAS in the NFMA are subject to the incidental catch limit specified in paragraph (c)(1)(i) of this section.

(h) *DAS usage by NE multispecies or sea scallop limited access permit holders.* A vessel issued a Category F permit that also has been issued either a NE multispecies or sea scallop limited access permit, and is fishing on a monkfish DAS, is subject to the DAS usage requirements specified in § 648.92(b)(2).

[70 FR 21945, Apr. 28, 2005, as amended at 72 FR 20960, Apr. 27, 2007; 72 FR 53942, Sept. 21, 2007]

§ 648.96 Monkfish annual adjustment process and framework specifications.

(a) *General.* The Monkfish Monitoring Committee (MFMC) shall meet on or before November 15 of each year to develop target TACs for the upcoming fishing year in accordance with paragraph (b)(1) of this section, and options for NEFMC and MAFMC consideration on any changes, adjustment, or additions to DAS allocations, trip limits, size limits, the Northeast Region SBRM (including the CV-based performance standard, fishery stratification, and/or reports), or other measures necessary to achieve the Monkfish FMP's goals and objectives. The MFMC shall review available data pertaining to discards and landings, DAS, and other measures of fishing effort; stock status and fishing mortality rates; enforcement of and compliance with management measures; and any other relevant information.

(b) *Annual Adjustment Procedures*—(1) *Annual Target TACs for FY 2007 through FY 2009*—(i) *NFMA.* The annual target TAC for the NFMA is 5,000 mt for FY 2007 through FY 2009, unless otherwise recommended by the MFMC through its annual review procedure specified in paragraph (a) of this section, and adopted through the procedures outlined in paragraph (b)(4) of this section.

(ii) *SFMA.* The annual target TAC for the SFMA is 5,100 mt for FY 2007 through FY 2009, unless otherwise recommended by the MFMC through its annual review procedure specified in

paragraph (a) of this section, and adopted through the procedures outlined in paragraph (b)(4) of this section.

(2) *Annual Target TACS for FY 2010 and beyond.* If a regulatory action is not implemented to establish target TACs for the monkfish fishery for FY 2010 or subsequent years, either through the annual review procedure described in paragraph (a) of this section or another type of regulatory action, the target TACs in effect during FY 2007 - FY 2009 will remain in effect until new measures are implemented. The management measures for FY 2010 or subsequent years that would be associated with these target TACs are described in paragraph (b)(6) of this section.

(3) *Setting DAS allocations*—(i) The process of determining the appropriate DAS allocations for each management area involves first estimating incidental landings for each management area and then estimating the proportional catch for permit categories A and C, and permit categories B, D, and H based upon vessel trip reports for the most recently completed fishing year for which a complete set of landings data exists. The landings proportions generated for each permit category group (A and C versus B, D, and H) are then used to estimate the landings that would be associated with each permit category group under a given target TAC, less projected incidental landings. For example, a target TAC of 5,100 mt equates to 11,243,580 lb (5,100,000 kg). If incidental landings for the SFMA are projected to be 2,070,000 lb (938,936 kg) the total amount of the target TAC available to limited access vessels would be 9,173,580 lb (4,161,066 kg). If the proportion of landings for permit category A and C vessels is 37 percent, and the proportion for permit category B, C, and H vessels is 63 percent, then the landing levels associated with each permit category group under this target TAC would be 3,394,225 lb (1,539,595 kg) and 5,779,355 lb (2,621,471 kg), respectively.

(ii) Landings are assumed to be fixed at a constant rate per day for each vessel, equivalent to the average daily landings of each vessel in the reference year, of the last applicable full year of landings data (a year is applicable if